

1 of negotiations” within 90 days whether the efforts were successful or file a request for
2 preemption or extension thereof. The first 90-day period in which the Applicant was
3 required to obtain consistency commenced to run. At the May 12, 2003 EFSEC
4 meeting, the Applicant requested and received an extension of the time for filing a
5 preemption request until September 1, 2003. Later EFSEC extended the time to
6 January 15, 2004 and subsequently to February 12, 2004.

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8 Based on statements of the County at the time the Applicant decided to apply pursuant
9 to KCC17.61A, the Applicant believed the County was not going to engage in a SEPA
10 EIS and review process. Although the County process had not been described, based
11 on general discussions, the Applicant believed that the County would start its process
12 upon receipt of the land use application and the County process could be completed in
13 about 90 days. Later in the early summer of 2003, the County stated that it would not
14 commence the process until it received a copy of the EFSEC DEIS. The Applicant was
15 somewhat surprised, but with the Applicant's understanding that the land use
16 compliance issues could be resolved in about 90 days from the issuance of the DEIS,
17 the Applicant decided waiting for the issuance of the DEIS was something the Applicant
18 could I tolerate and did not to make an issue of the matter.

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20 In August of 2003, the County raised the issue that it wanted to have EFSEC include an
21 analysis of off-site alternatives in the EFSEC DEIS. The County was exempted from an
22 EIS requirement pursuant to RCW 80.50. 180; however, the County requested the
23 information for its own analysis. Again, the Applicant supported the County and
24 accepted the delay created by the further analysis, believing the County would complete
25 its process in about 90-days after the issuance of the DEIS. EFSEC agreed to include
26 the off-site alternatives analysis in its DEIS.

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28 On October 15, 2003, for the first time, the County verbally outlined details of its process
29 and schedule, in response to repeated requests from the Applicant for such information.
30 This process and schedule included County staff review of the EFSEC DEIS to

1 determine adequacy. This was contrary to the Applicant's understanding based on
2 previous statements from the County that the SEPA EIS review process was to be left to
3 EFSEC. The process as described by the County would have taken at least 7 months
4 from the end of the public comment period on the DEIS. The Applicant became very
5 concerned that the County was apparently duplicating the EFSEC SEPA process and
6 reserving to the County the determination of the adequacy of the EFSEC DEIS and the
7 responses to comments, before the County would complete its process. This created
8 the potential to cause the Applicant almost unlimited delays in the County process.

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10 Mr. C. Taylor sent a letter to Mr. Clay White on October 30, 2003 thanking him for taking
11 the time to meet with him and Mr. Peeples regarding the County's anticipated process
12 for reviewing the KVVPP land use application. Attached to the letter was a draft
13 schedule for the County's review process that Mr. C. Taylor put together based on the
14 steps and timelines the County described verbally at the meeting on 10/15/03 (the letter
15 and the attached schedule are set out in Exhibit 1). Mr. Taylor expressed his concerns
16 about the lengthy timeline, particularly given that the County is statutorily exempt from a
17 SEPA EIS requirement. Mr. C. Taylor suggested the County eliminate potentially
18 redundant SEPA steps that are already built into the EFSEC process so the County
19 could accelerate its review process and reduce unnecessary demands on the County.
20 Mr. Clay White responded by an email to Mr. C. Taylor on November 5, 2003. In the
21 email Mr. White states that, "Kittitas County cannot commit to specific project timelines
22 because we have no control of the environmental documents being prepared by Shapiro
23 and EFSEC...By suggesting that we eliminate portions of the review process, you are
24 asking [Kittitas County] to break state and local land use laws." The portions of the
25 review process suggested to be eliminated were related to the review of the SEPA DEIS
26 from which the County was exempted. Even if the County had not been exempted,
27 there was no requirement for the County's proposed SEPA review process because
28 EFSEC would have been the lead agency pursuant to WAC 197-11-938(1).
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